

**REMARKS**

Further to telephone discussions between the Examiner and the Applicant's representative of December 27, 2004, January 25, 2005, and March 23, 2005 indicating that the finality of the pending Final Office Action is being withdrawn, and a new nonfinal Office Action being issued in response to a Request for Reconsideration filed August 24, 2004, this Preliminary Amendment is submitted to improve the form of the claims as originally-filed, and is further in response to the pending Final Office Action .

New claim 21 is presented. No new matter is presented in any of the foregoing and, accordingly, approval and entry of the new claim are respectfully requested. Claims 1-8 and 10-21 are pending and under consideration.

In the pending final Office Action, claims 1, 2, and 6 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ghori (U.S.P. 6,282,714-B1) in view of Hamalainen (U.S.P. 5,729,541), Maillet (U.S.P. 3,649,764), and McMullan (U.S.P. 5,729,541); claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ghori in view of Hamalainen, Maillet, McMullan, and Spaur (U.S.P. 5,732,074); claims 4-5 and 7-8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ghori in view of Hamalainen, Maillet, McMullan, Spaur and Chang (U.S.P. 5,974,449); claims 10, 11 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ghori in view of Hamalainen, Maillet, McMullan, and Lange (U.S.P. 4,555,806); claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ghori in view of Hamalainen, Maillet, McMullan, Lange and Spaur; claims 13-14 and 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ghori in view of Hamalainen, Spaur, and Lange; claim 16 is rejected under 35 U.S.C. §103(a) over Ghori in view of Hamalainen, Maillet, McMullan, Chang and Lange; and claim 17 is rejected under 35 U.S.C. §103(a) over Ghori in view of Hamalainen, Maillet, McMullan, Spaur and Lange.

The foregoing rejections are respectfully traversed.

An Office Action (Action 1) mailed April 10, 2003 did not respond to Applicant's arguments filed January 31, 2003 regarding the Examiner's contentions of inherencies in view of Ghori. Applicant filed an RCE concurrently with an Amendment on September 10, 2003 (Response 1) arguing that the cited art, e.g., Spaur, Chang, and Lange is nonanalogous art and that the Examiner had not responded to the Applicant's previously filed arguments. In the Office Action mailed October 23, 2003 (Action 2), the Examiner again did not respond to Applicant's arguments, and instead rejected claims 1-8 and 10-17, in view of newly cited art Maillet. Applicant's response (Response 2) filed January 31, 2003 traversed the rejections arguing that

Maillet is also nonanalogous art directed to satellite technology and channels based on time division. The pending final Office Action cites new art McMullan in the rejections of claims 1-8, 10-12, and 15-17. The Examiner has still not responded to Applicant's arguments, including the nonapplicability of the art. As discussed above, the Examiner has indicated that the pending final Office Action is being withdrawn.

## TRAVERSE OF REJECTIONS

Ghori discusses a receiver receiving a degraded signal through a link because the received signal is composed of a number of signals that correspond to the same transmitted signal but reach the receiver through a variety of paths. That is, such a link does not offer protection against signal degradation due to the multi-path phenomena (column 2, lines 16-24 of Ghori). To solve the above problem of the prior art, Ghori discusses a spread spectrum transceiver utilizing spread spectrum modulation to modulate signals (column 7, lines 14-15 of Ghori). This distribution pattern is based on either direct sequence coding or frequency hopping. In frequency hopping, a transmitter transmits at a particular frequency for a short time interval, then switches to another frequency for another short interval, and so on. Only the receiver knows the random frequency selection sequencing (column 7, lines 20-32 of Ghori).

Hamalainen relates to a TDMA (time division multiple access) system (refer to the Abstract, col. 3, lines 24-37, col. 4, lines 64-67). Moreover, Hamalainen in cols. 7-9 discusses a bit map based upon a random number generated regarding channels and packed data.

Maillet discusses a time-division multiple-access communications system using "a satellite transponder and a plurality of earth stations, each earth station periodically transmits bursts of data which are timed so that the bursts from the earth stations in the system interleave and do not overlap in time when received at the satellite . . . each burst is subdivided into time slots or channels," and these channels are reallocated among the operating stations in a frame. (See, for example, abstract).

In contrast to Maillet, which is directed to satellite technology and channels based upon time division, aspects of the present invention are directed to a local area information network that receives broadcasted information within a local area using channels that imply a bandwidth defined per frequency of the broadcasting within the local are (refer to the fourth paragraph beginning on page 3 of the present specification, for example).

Spaur discusses a mobile wireless communication system used with the Internet, and is directed to communication of information between a remote computer and a vehicle (refer to the abstract of Spaur).

Chang discusses a system transmitting messages from a number of different platforms, sending e-mail messages over the internet or intranet using the IP protocol, resolving the domain name of the e-mail address to a mail server, and transmitting the e-mail to the mail server, allowing the user to login to the mail server using a permanent or temporary IP address.

Lange discusses a transmitter receiver pair scanning a number of channels to see which channels are free, and displaying the free channels on a CRT (col. 1, lines 21-59, and col. 4 and col. 5). Lange, in contrast to the present invention, as disclosed in cols. 1, 4, 5, and 6, evaluates channels based upon channel quality "before beginning the establishment of a connection" (Lange, col. 5, at lines 17-20), then selects the channel based upon the channel which has registered the best quality (col. 6, lines 7-13).

McMullan is directed to a cable television system and addresses interference noise that causes peaks in the noise spectral density distribution in a band of interest (col. 2, starting at line 36). McMullan, in contrast to the present invention, as discussed in col. 5 "relates to radio frequency data return apparatus for . . . recovery of set-top terminal purchase record and other information via reverse cable RF communication." McMullan discusses a single bandwidth, i.e., 100kHz bandwidth data channel (col. 37, lines 64-65).

In contrast to McMullan, which is directed to a cable television system, according to aspects of the present invention, files are transmitted as broadcasting data stored in a file storing unit to within a local area via the selected channel, wherein the channel comprises a bandwidth defined per frequency of the broadcasting.

The combination of Ghori, Hamalainen, Maillet, and McMullan would be a spread spectrum transceiver utilizing spread spectrum modulation to modulate signals, in a TDMA system, and, more particularly, a variable burst length time division multiple-access communication system using a satellite transponder and a variety of earth stations at a single bandwidth.

The combination of Ghori, Hamalainen, Maillet, Spaur, and McMullan would be a spread spectrum transceiver utilizing spread spectrum modulation to modulate signals in which a mobile wireless communication system is involved, in a TDMA system, and, more particularly, a variable burst length time division multiple-access communication system using a satellite transponder and a variety of earth stations at a single bandwidth.

The combination of Ghori, Hamalainen, Maillet, Chang, Spaur, and McMullan would be a spread spectrum transceiver utilizing spread spectrum modulation to modulate signals in which a mobile wireless communication system is involved, in a TDMA system, and, more particularly, a

variable burst length time division multiple-access communication system using a satellite transponder and a variety of earth stations, in a system transmitting e-mail at a signal bandwidth.

The combination of Ghori, Hamalainen, Spaur, and Lange would be a spread spectrum transceiver utilizing spread spectrum modulation to modulate signals, in a TDMA system, which displays free channels on a CRT, in a mobile wireless communication system.

The combination of Ghori, Hamalainen, Maillet, Lange, and McMullan would be a spread spectrum transceiver utilizing spread spectrum modulation to modulate signals, in a TDMA system, and, more particularly, a variable burst length time division multiple-access communication system using a satellite transponder and a variety of earth stations, which displays free channels on a CRT at a single bandwidth.

The combination of Ghori, Hamalainen, Maillet, Spaur, Lange, and McMullan would be a spread spectrum transceiver utilizing spread spectrum modulation to modulate signals, in a TDMA system, and, more particularly, a variable burst length time division multiple-access communication system using a satellite transponder and a variety of earth stations, which displays free channels on a CRT, in a mobile wireless communication system at a single bandwidth.

Each of independent claims 1, 4, 6, 10, 15, and 18-20 of the present application recites (using the recitation of claim 1 as an example) a "local area information terminal" transmitting a file as "broadcasting data...to within a local area network" via a selected channel, wherein "the channel comprises a bandwidth defined per frequency of the broadcasting" (or "transmitting" as recited in claims 4, 6, 10, and 15).

In contrast to the foregoing references relied upon, as recited in claim 13 of the present application, the present invention broadcasts data within a local area. More particularly, independent claim 13 of the present application recites a "local area information terminal selectively receiving broadcasting information," wherein "the broadcasting is within the local area."

In contrast to the foregoing references independent claims 18-20 recite, using claim 18 as an example, "a channel retrieving unit retrieving a free channel from among broadcasting channels allocated to respective frequency bandwidths and judging whether the free channel exists or not".

Moreover, dependent claims 2, 3, 5, 7, 8, 11, 12, 14, 16, and 17 recite patentably distinguishing features of their own. For example, claim 2 recites "a cipher processing unit,

wherein the file read from said file storing unit is encrypted by said cipher processing unit and thereafter transmitted from said transmitting unit”.

Withdrawal of the foregoing rejections is respectfully requested.

### **Cited Art is Nonanalogous Art**

As set forth in MPEP §2141.01(a), to rely on a reference under 35 U.S.C. §103, it must be analogous prior art, e.g., "(r)eference was found to be in a different field of endeavor because it involved memory circuits in which modules of varying sizes may be added or replaced, whereas the claimed invention involved compact modular memories."

Applicant submits that the cited art, i.e., Spaur, Chang, Lange, Maillet, and McMullan are nonanalogous art, as argued above, and as previously submitted in Responses 1 and 2.

Since the cited art should not be relied on as references, Applicant requests withdrawal of the rejections and allowance of the claims.

### ***Prima facie* Obviousness Not Established**

#### **No Motivation Or Reasonable Expectation of Success Stated Within the Cited Art To Combine In The Manner Proposed By The Examiner**

Applicant submits that the Examiner has not followed the standards set forth and has not properly established a *prima facie* case of obviousness in formulating any of the rejections. As set forth set forth in MPEP 2142:

. . . teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). . . Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.).

In rejecting claims 1, 2, and 6, the Examiner, for example, contends it would have been obvious to modify the data transmission system of Ghorl:

. . . to utilize the free channel search and allocation system of Hamalainen and selecting a lowest numbered channel as taught by Maillet thereby reducing congestion on a radio based network by utilizing all available channels and utilize frequencies with a predefined bandwidth as taught by McMullan to prevent overlap of signals and enable a device to utilize all available bandwidth for the channel. (Action at page 5).

However, the Examiner does not provide support from the cited art for the conclusory arguments, and contended combinations. Applicant further submits that for each of the contended combinations that there not a reasonable expectation of success to combine the references in a manner as suggested by the Examiner.

Since *prima facie* obviousness is not established, Applicant requests withdrawal of the rejections and allowance of the claims.

**CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

It is respectfully requested that this Preliminary Amendment be entered in the above-referenced application.

If there are any additional fees associated with filing of this Preliminary Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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